

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARTA GUEVARA,

Plaintiff,

-v.-

GOLDEN STAR DELI INC. and SIDIQ  
MOHAMED ALROBEYEE,

Defendants.

23 Civ. 5258 (JHR)

ORDER

JENNIFER H. REARDEN, District Judge:

On June 21, 2023, Plaintiff Marta Guevara filed the Complaint in this action against Defendants Sidiq Mohamed Alrobeyee (“Alrobeyee”) and Golden Star Deli Inc. (“Golden Star”). ECF No. 1. Golden Star was served with process on July 21, 2023. ECF No. 7. Its answer was therefore due on August 11, 2023. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). To date, Golden Star has not responded to the Complaint or otherwise appeared in this action. With respect to Alrobeyee, the docket does not reflect that service was ever effected.

On January 19, 2024, the Court issued an Order to Show Cause addressing Plaintiff’s failure to (i) move for a default judgment against Golden Star and (ii) timely serve the summons and Complaint on Alrobeyee. *See* ECF No. 8. The Court directed that, by January 29, 2024, Plaintiff (i) “move for a default judgment against Golden Star or show cause why the claims against Golden Star should not be dismissed for failure to prosecute” and (ii) “show cause in writing why she ha[d] failed to serve the summons and Complaint on Alrobeyee within the 90 days prescribed by Rule 4(m) of the Federal Rules of Civil Procedure.” ECF No. 8 at 1-2. The Court cautioned Plaintiff that “[f]ailure to submit a timely and proper motion for default judgment [might] result in dismissal” of her claims against Golden Star. *Id.* at 2. The Court also warned that, if Plaintiff “fail[ed] to . . . show[] good cause why [ ] service [on Alrobeyee] was

not made within the 90 days, the Court [might] dismiss the claims against Defendant Alrobeyee without further notice.” *Id.* at 1-2.

On February 1, 2024, Plaintiff filed a letter-motion requesting a 30-day extension of time to seek a default judgment against Golden Star and suggesting, “[i]n the event of [Alrobeyee’s] non-appearance,” that Plaintiff file “a single, Motion for Default Judgment, as against both non-appearing Defendants.” *See* ECF No. 13. The letter-motion stated that Plaintiff’s counsel was “in the process of obtaining necessary information from Plaintiff in support of the Motion for Default Judgment.” *Id.* at 1. In addition, “Plaintiff’s process servers [we]re in the process of finalizing process of service on [Alrobeyee].” *Id.*

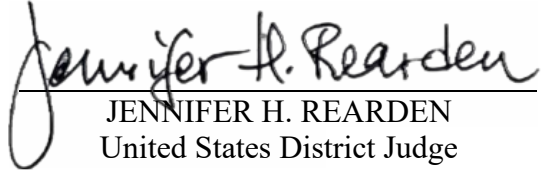
Plaintiff’s application for an extension of time to move for default judgment against Golden Star is GRANTED IN PART. It is hereby ORDERED that, by **Wednesday, April 17, 2024**, Plaintiff shall file a motion for default judgment against Golden Star. **If Plaintiff fails to file a motion for default judgment against Golden Star by the aforementioned deadline, the Court will dismiss the case for failure to prosecute without further notice to the parties.**

Additionally, because Plaintiff offered no explanation for why service on Alrobeyee was still “in the process of [being] finaliz[ed]” four months after the Rule 4(m) deadline and seven months after initiating this action—and because service still has not been effected, more than six months after the Rule 4(m) deadline and nine months after initiating this action—the Court hereby DISMISSES without prejudice the claims against Alrobeyee pursuant to Rule 4(m). *See Horizon Group USA, Inc. v. Innovative Designs, LLC*, No. 22 Civ.1241 (JPC) (S.D.N.Y. July 28, 2022) (dismissing case under Rule 4(m) because Plaintiff “neither filed the required [ ] letter showing good cause why service was not made nor filed proof of service on the docket,” where the court’s order to show cause had “warn[ed] Plaintiff that [failure to] . . . show[] good cause why such service was not made within the 90 days” by stated deadline would result in dismissal).

The Clerk of Court is directed to close ECF No. 13 and to terminate Defendant Sidiq Mohamed Alrobeyee from this action.

SO ORDERED.

Dated: April 10, 2024  
New York, New York

  
JENNIFER H. REARDEN  
United States District Judge